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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

D.A. DIRECT, INC.,

Plaintiff,

- against -

CHINA INT’L FREIGHT CO., LTD.,

Defendant.

Case No. 22-cv-4609

COMPLAINT

Plaintiff, D.A. Direct, Inc. (“D.A. Direct”), by and through its attorneys Hill Rivkins LLP, as and for their Complaint against Defendant, China Int’l Freight Co., Ltd. (“CIF”), allege upon information and belief as follows:

1. This action arises from loss of or damage to cargoes transported, or intended to be transported, by ocean carriage from China to the United States.
2. This action is comprised of admiralty and maritime claims within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure and this Honorable Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1333.
3. The United States District Court for the Southern District of New York is the proper venue for this action by virtue of the forum selection clause contained in the operative bills of lading, sea waybills, terms and condition of service, and/or contracts of carriage for the shipments

at issue. CIF has consented to the personal jurisdiction of this Honorable Court by virtue of the same forum selection clause.

4. By e-mail on or about the weekend of April 9-10, 2022, CIF's legal department invited D.A. Direct to bring a case against CIF in United States Court.

5. At all times relevant hereto, Plaintiff D.A. Direct was and now is a business entity organized and existing under Texas law, with an office and principal place of business at 8120 Chancellor Row, Dallas, TX 75247.

6. D.A. Direct was the consignee of the cargoes described in Schedule A (the "Cargoes"), which is annexed hereto and incorporated herein by reference.

7. At all times relevant hereto, CIF was and now is a business entity organized and existing under foreign law with an office and principal place of business at 2F, No. 90, Sec. 1, Jianguo N. Road, Zhongshan District, Taipei 104, Taiwan (R.O.C.).

8. At all times relevant hereto, CIF was and now is engaged in business as a non-vessel operating common carrier ("NVOCC") and/or ocean transportation intermediary ("OTI"), licensed by and registered with the U.S. Federal Maritime Commission (organization no. 014799), issuing bills of lading and/or sea waybills for the common carriage of goods aboard ocean-going vessels.

9. Pursuant to and in accordance with 46 C.F.R. § 515.24, CIF has designated and maintains Distribution-Publications, Inc., located at 1999 Harrison Street, Suite 650, Oakland, CA 94612, as its agent in the United States for the receipt and service of legal and administrative process.

10. In or about November 2020 at the port of loading identified in Schedule A, the Cargoes were tendered to and delivered into the custody and/or control of CIF (and/or its agents,

servants, and/or subcontractors) in good order and condition, and suitable in every respect for the intended transportation, which CIF (and/or its agents, servants and/or sub-contractors for whom it is liable) received, accepted, and agreed to transport by ocean carriage to destination, for certain consideration and payment of freight charges, in the shipping containers and under the bills of lading identified in Schedule A.

11. However, on or about November 30, 2020, numerous containers fell overboard from the M/V ONE APUS and were lost at sea in the North Pacific (the “Casualty”), including those identified in Schedule A.

12. CIF (and/or its agents, servants, and/or subcontractors) thus failed to deliver the Cargoes to their destination in the same good order and condition as they were received.

13. By reason of the premises, CIF (and/or its agents, servants, and/or subcontractors, for whom CIF is responsible) breached its statutory, contractual, and/or common law duties and obligations as an NVOCC, OTI, and/or bailee of the Cargoes; was negligent and/or careless in its handling of the Cargoes; and is otherwise liable for the losses and damages described herein.

14. Plaintiff brings this action on its own behalf and on behalf of all parties who are or may become interested in the cargoes described in Schedule A, as their respective interests may ultimately appear, and Plaintiff is entitled to maintain this action.

15. All obligations and conditions precedent to be performed by Plaintiff and/or the shippers, consignees, and/or owners of the Cargoes have been performed, waived, or otherwise excused, including the payment of freight.

16. By reason of the premises, Plaintiff has sustained damages, as nearly as the same can now be estimated, no part of which has been paid although duly demanded, in the amount of \$139,329.44.

WHEREFORE, Plaintiff prays:

- i. that process be issued against Defendant CIF in due form of law according to the practice of this Honorable Court, citing it to appear and answer the foregoing;
- ii. that judgment be entered against Defendant CIF in favor of Plaintiff D.A. Direct, Inc. in the amount of \$139,329.44, together with costs and interest; and
- iii. for such other and further relief as this Honorable Court deems just and proper under the circumstances.

Dated: New York, New York
June 3, 2022

Respectfully submitted,

HILL RIVKINS LLP
Attorneys for Plaintiffs

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SCHEDULE A

Container No.: KOCU4500891
Cargo: 485 Cartons of Artificial Plastic Flowers
CIF Bill of Lading No.: GUZ00137140N
Shipper: Direct Products Ltd
Consignee: DA Direct Inc
Place of Receipt: Yantian, China
Place of Delivery: Long Beach, California
Nature of Loss: Non-Delivery

Container No.: HMMU9021853
Cargo: 1,245 Cartons of Artificial Plastic Flowers
CIF Bill of Lading No.: GUZ00137010R
Shipper: Direct Products Ltd
Consignee: DA Direct Inc
Place of Receipt: Yantian, China
Place of Delivery: Long Beach, California
Nature of Loss: Non-Delivery

Container No.: KOCU9018054
Cargo: 2,400 Cartons of Artificial Plastic Flowers
CIF Bill of Lading No.: GUZ00137010R
Shipper: Direct Products Ltd
Consignee: DA Direct Inc
Place of Receipt: Yantian, China
Place of Delivery: Long Beach, California
Nature of Loss: Non-Delivery

Container No.: HMMU9044416
Cargo: 1,100 Cartons of Artificial Plastic Flowers
CIF Bill of Lading No.: GUZ00134846A
Shipper: Direct Products Ltd
Consignee: DA Direct Inc
Place of Receipt: Yantian, China
Place of Delivery: Long Beach, California
Nature of Loss: Non-Delivery